

ORDER FOR ADJOURNMENT

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of the Senator from Illinois.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

AMENDMENT NO. 452

(Purpose: To provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence)

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding the fact that H.R. 1268 is not pending, to call up amendment No. 452 by Senator REED of Rhode Island, and then it be set aside.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The PRESIDING OFFICER (Mr. ROBERTS). On this lovely Friday afternoon, the distinguished Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, thank you for observing how beautiful it is outside and how wonderful it is to serve the Senate. Like yourself, I feel honored to represent the fine people of my State.

I also am honored to ask unanimous consent that when I finish my remarks, the senior Senator from West Virginia, Mr. BYRD, be recognized to take the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NUCLEAR OPTION

Mr. DURBIN. Mr. President, I would like to address two issues that are related. The first issue is the so-called nuclear option. I think many people have read about it and heard about it. I would like to explain, from my point of view, the merits of that issue. Then I would like to address an article which appeared this morning on the front page of the New York Times relative to a meeting which will take place on April 24, sponsored by the Family Research Council, a meeting at which the majority leader of the Senate, Senator BILL FRIST, is reported to be scheduled to speak. I would like to address both of those issues and try to make this as direct and concise as I can.

First, let me say there is one thing that binds every Member of the Senate, Republican or Democrat or Independent. There is one thing that brings us together in this Chamber. It is an oath of office. That oath of office, where we stand solemnly before the Nation, before our colleagues, is an oath where we swear to uphold and de-

fend the Constitution of the United States, this tiny little publication which has guided our Nation and our values for over two centuries.

Though we may disagree on almost everything else, we swear to uphold this document. We swear that at the end of the day we will be loyal to this Constitution of the United States. That, I think, is where this debate should begin, because this Constitution makes it very clear that when it comes to the rules of the Senate, it is the responsibility and authority of the Senate itself to make its rules. I refer specifically to article I, section 5. I quote from the Constitution:

Each House may determine the rules of its proceedings. . . .

Because of that, most courts take a hands-off attitude. It is their belief that we decide how we conduct business in this Chamber, as the House of Representatives will decide about theirs. That is our constitutional right.

When this Constitution was written, there was a question about whether we could bring together 13 different colonies and they would agree to have one Federal Government. The first suggestion was that we create a House of Representatives with one Congressman for each American person who will be counted. There was, of course, a different system for counting those of color. But when the smaller States took a look at the House of Representatives, they were concerned. They understood in the House of Representatives the larger States would be a dominant voice because they had more people, more Congressmen. The Great Compromise said let us resolve this by creating a Senate which will give to every State, large and small, the same number of Senators—two Senators from each State. So today the State of Rhode Island has the same number of Senators as the State of New York; the State of South Dakota, the same number of Senators as the State of California—the Great Compromise, so the Senate would observe the rights of the minority, the smaller populated States, and give them an equal voice on the floor of the Senate.

The Senate rules were written to reflect that unique and peculiar institutional decision. We said within the Senate, following this same value and principle, that our rules would be written so the minority within the Senate would always be respected. We created something called a filibuster, a filibuster which is unique to the Senate but is consistent with the reason for its creation.

Some of you may remember the filibuster if you saw the movie "Mr. Smith Goes to Washington." Jimmy Stewart, a brand new Senator, full of idealism, comes to the floor of the Senate and runs smack dab into this establishment of power in the Senate. He decides it is worth a fight and he stands at his Senate desk and starts to speak, and he continues to speak hour after hour until clearly he is about to col-

lapse. But he holds the Senate floor because it was his right to do it as a Senator. As long as his throat would hold up, and other bodily functions, he continued.

We all remember that movie. It spoke to the idealism of the Senate and it spoke to its core values—the filibuster. That is because it was part of checks and balances. It said we are saying to the legislative branch of Government: You are independent, you have your own power, and within that legislative branch you make your own rules. You define who you will be and how you will conduct your business.

We said to the executive branch: We respect you, but you are separate. You don't make our rules; the legislature makes its own rules. The Senate makes its own rules. The House makes its own rules. It is because of that difference, because each branch—the executive with the President, the congressional branch of Government and the judicial branch of Government—is separate and coequal, that we have this great Nation we have today.

It was an amazing stroke of genius that in this tiny publication these Founding Fathers understood how to create a government that would endure.

Think of all the governments in the world that have come and gone since those men sat down in Philadelphia and wrote these words. We have endured. Each and every one of us comes to this floor before we can cast our first vote and we swear to uphold and defend this document and what it contains.

The reason I tell you this is because at this moment there are those who are planning what I consider to be an assault on the very principles of this Constitution. There are those who wish to change the rules of the Senate and in changing the rules of the Senate, defy tradition, change the rules in the middle of the game, and have a full frontal assault on the unique nature of this institution. That, I think, is an abuse of power. I think it goes way too far. It ignores our Founding Fathers. This nuclear option ignores the Constitution. It ignores the rules of the Senate. For what? So the President of the United States can have every single judicial nominee approved by the Senate.

What is the scorecard? How has President Bush done in sending judicial nominees to the Senate? I can tell you the score as of this moment. Since he was elected President, he has had 215 nominees on the floor for a vote in the Senate and 205 have been approved. That is 205 to 10; over 95 percent of President Bush's judicial nominees have come to the floor and been approved. Only 10 have not been approved. They have been subject to a filibuster, part of the Senate rules.

But this White House and majority party in the Senate have decided 95 percent is not enough. They want it all. They want every nominee. Sadly,